Scott. II-37—40,000—14-10-36.

(18)

~~Home~~ (1937) Department.

~~M~~ SERIES.

G.O. No. 1264

DATED 15-3-1937

cancelled by

G.O. 2951 Home

29-7-1937

[Despatch Abstract.]

Leave - Sankaranarin Rao M.R.Ry. P. - Sarishtadar, District Court, South Kanara - After 55th Year - Refused.

152

C.F. 30.

DEPARTMENT.

Received ..... 19 *Registered* Home 1927 E. 19

8.12.36

V4

Subject.

ASSISTANT SE... PUBLIC GOVERNMENT 8-DEC 1936 ... DEPARTMENT

ENCLOSURES.

No. .....

2 Spare copies

R.O.C. No. 5315/36-B3.

Station Madras, *Dated the* 7th December 19 36.

From (Name) G., S. White Esq., (Solicitor)

(Designation) Registrar, High Court, Madras.

To The Secretary to the Government of Madras,

Home Department.
(with enclosure).

Sir,

Sub:-Leave beyond 55 years of age - Grant of - M.R.Ry.P.Sankaranarain Rao, Sheristadar, District Court, South Kanara.

—

p. 2 infra.

I am directed to forward for the orders of Government a copy of letter No. 6734 dated 27-11-1936 from the District Judge, South Kanara on the above subject and to state that the Hon'ble the Judges support the District Judge's recommendation.

I have the honour to be,
Sir,
Your most obedient servant,

PA

REGISTRAR.

152

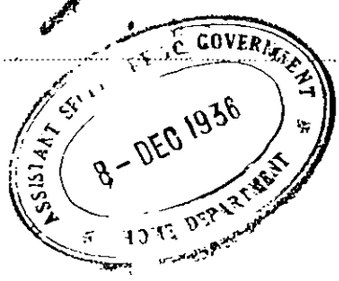
C.F. 50.

DEPARTMENT.

Received ..... 19 . *Registered* Home 1927 E 19

8.12.36

V4



Subject.

Enclosures.
No.
Spare copies

R.O.C. No. 5315/36-B3.

Station Madras, *Dated the* 7th December 19 36.

From (Name) G., S. White Esq., (Solicitor)

(Designation) Registrar, High Court, Madras.

To The Secretary to the Government of Madras,

Home Department.
(with enclosure).

Sir,

Sub:-Leave beyond 55 years of age - Grant of - M.R.Ry.P.Sankaranarain Rao, Sheristadar, District Court, South Kanara.

—

p. 2 infra.

I am directed to forward for the orders of Government a copy of letter No. 6734 dated 27-11-1936 from the District Judge, South Kanara on the above subject and to state that the Hon'ble the Judges support the District Judge's recommendation.

I have the honour to be,
Sir,
Your most obedient servant,

PA

REGISTRAR.

2

Copy of letter No. 6734 dated 27-11-1936 from the District Judge, South Kanara, to the Registrar, High Court of Judicature, Madras.

M.R.Ry. P. Sankarnarain Rao, my Sheristadar has applied for leave from 14-11-1936 to 22-12-1936 with permission to affix Christmas holidays commencing from 23-11-1936, the New Year's Day and the public holiday on 2-1-1937 and Sunday, 3-1-1937, to the leave. His cousin brother who was Deputy Nazir, Kundapur suddenly expired on the 13th instant. He applied for casual leave for three days to proceed to Kundapur with a view to see the state of affairs there and has written to me from Kundapur informing me that the affairs of his deceased cousin are almost in a state of confusion, that there is no one there to put matters right as the deceased has only a minor son and that therefore his presence in Kundapur is absolutely necessary.

2. I am therefore satisfied that the leave applied for is indispensable to him. Throughout his service of more than 34 years he has up to now availed himself of privilege leave of 5 months and 8 days in all and had not had any furlough. He attained 55 years of age on 28-3-1936 and his services were extended by me for one year from 28-3-1936. He is governed by the Simplified Leave Rules as published in Part III of C.S.R Fifth Edition (Third Reprint), Chapters XI and XII, and under Rule 234 C.S.R. leave can be granted to him only by the Government.

3. I therefore request that the High Court may be pleased to move the Government to grant him privilege leave on full pay from 14-11-1936 to 22-12-1936 with permission to prefix the holiday on 13-11-1936 and also affix Christmas holidays commencing

from 23-12-1936, the New Year's Day, the public holiday on 2-1-1937 and Sunday, 3-1-1937, to the leave.

- - -

HOME (E) DEPT.

ENDT:NO. 2927 E-1/9.12.36.

ESTABLISHMENT - M.R.Ry.P. Sankara-narain Rao, Sarishtadar, Dt.Court, South Kanara.- Leave beyond 55 years of age - Ref: Letter from the Regr. High Court, R.O.C.5315-36-B-3 dated 7-12-36.

...

Referred to the Accountant-General, for remarks.

To the Accountant-General (with ~~copy~~ p.2.c.f. the returned with reply)

Dpr.'s initials

Date

Ham 30878
24.12.36

INDIAN AUDIT **DEPARTMENT.**

Subject.

"Leave beyond 55 years of age - M.R.Ry., P. Sankaranarain Rao, Sheristadar, District Court, South Kanara."

-:-:-:-:-

Enclosures :—
One

FORT ST. GEORGE, MADRAS,

No. T.6.Jus-568. *Dated the* 21st December *193* 6.

22

FROM

THE ACCOUNTANT-GENERAL
(T. A. VI. Section) *Madras,*

To

THE SECRETARY TO THE GOVERNMENT OF MADRAS,
HOME DEPARTMENT.

SIR,

P U Enclosure

In returning herewith the enclosure received with Government Endorsement No.2927-E-1 dated the 9th December 1936 on the subject indicated above, I have the honour to state that as the Sarishtadar - the chief ministerial officer - is governed by the simplified leave rules, the grant of leave recommended by the District Judge, after the date of the attainment of the age of 55 years, which is subject to the

fulfilment

fulfilment of the conditions mentioned in Article 234(b) of the Civil Service Regulations requires the sanction of Government.

I have the honour to be,

Sir,

Your obedient servant,

T.J.T.

DEPUTY ACCOUNTANT-GENERAL.

HOME DEPT.

LETTER:REF:NO: 2927 E-2/ 14.1.37.

To

The Hon'ble the C.J.

High Court, Madras.

Hon'ble Sir,

Leave beyond 55 years - Mr.P. Sankarnarain Rao, Sheristadar, District Court, South Kanara - Ref: Mr. White's letter R.O.C. No.5315-36-B-3 d. 7-12-36.

...

I am directed to say that the grant of leave beyond 55 years of age recommended by the Hon'ble the Judges in the letter cited above, is governed by the condition laid down in Art. 234 (b) C.S.R. I am, therefore, directed to request that the Hon'ble the Judges will be so good as to ~~obtain and forward information~~ with whether Mr. P. Sankarnarain Rao applied for leave before he attained 55 years of age and it was refused in public interest.

I have etc.

Dpd. by Messenger
Dpr.'s initials.
Date 193

C F. 30.

DEPARTMENT.

Received 30 JAN 1937 HOME DEPARTMENT 192 . *Registered* Hom 400 E 192
30.7.37.

Subject.

ENCLOSURES.
No .....
.....
Spare copies .....

R.O.C.No. 5315/36-B3.

Station Madras , *Dated the* 28th January 1937. 192--.

From (Name) G.S.WHITE Esquire, (Solicitor),
(Designation) Registrar, High Court, Madras.

To The Secretary to the Government of Madras,
HOME Department.

Sir, Leave beyond 55th year - Mr.P.Sankaranarayana Rao - Sheristadar of Dt.Court, South Kanara - Refce:- Letter No.2927 E-2 Home (Department) dated 14-1-37.

--

I am directed to state that no leave applied for by the Sheristadar before he attained the age of 55 years was refused in the public interest.

I have the honour to be,

Sir,

Your most obedient servant,

Registrar.

tv

C F. 30.

. DEPARTMENT.

20 FEB 1937
ASSISTANT SECRETARY TO GOVT.
HOME DEPARTMENT

Received ..... 192 . *Registered* 192

Subject.

Home 705 E
23/2/37.

26 FEB 1937
ASSISTANT SECRETARY TO GOVERNMENT
STATION DEPT.

ENCLOSURES.
No .....
.....
Spare copies .....

R.O.C. No. 5315/36 B_3

Station Madras , *Dated the* 17th February 1937. 192- .

From (Name) G.S. White Esquire (Solicitor)

(Designation) Registrar, High Court of Judicature, Madras.

To The Secretary to the Government of Madras,

Home Department.

Sir,

Leave beyond 55 years - Mr.P. Sankaranarain Rao, Sheristadar, District Court, South Kanara - Reference:- Correspondence ending with the High Court's letter R.O.C. 5315/36 B_3 dated 28-1-1937.

In continuation of my letter quoted above, I am to state that the District Judge, South Kanara reports that the Sheristadar has since retired from service with effect from 1-2-1937 and that his pension papers have to be kept pending Orders of Government regarding his leave.

I have the honour to be,
Sir,
Your most obedient servant.

REGISTRAR.

Fin (CS R)

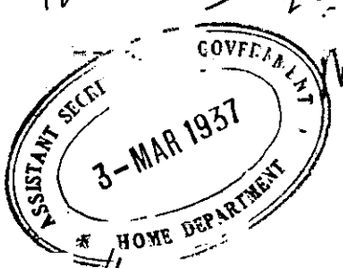
The case in question was returned to the Home dept. with this dept's no: 5753 1 Ch dt 25.2.37. This may therefore be returned to that dept.

1337
1.3.37

2.3.37

Home no

Fin no: 618/1 Ch
2337



Nam 843 E
2.3.37.

11

HOME (E) DEPT.

2927 E From the High Court, R.O.C.No.5315-36-B-3 d. 7-12-36.
To the Accountant-General, Endt.No.2927 E-1 d. 9-12-36.
3087 E From the Accountant-General, No.T.6.Jus.568 d. 21/22-12-36.

...

LEAVE beyond 55 years of age - Mr.P. Sankaranarain Rao, Sherishtadar, District Court, S.Kanara.

...

A.S.

Mr.P. ~~Sankarnain~~ Sankaranarain Rao, Serishtadar, District Court, South Kanara, completed his 55th year on 28-3-36. His service has been extended by the District Judge for one year from that date. It is stated that the Serishtadar applied for leave ~~for 9 days~~ to 22.12.36 with permission to affix the christmas and new year holidays. ~~for 1936.~~ The District Judge is of opinion that the leave is indispensable to him and the High Court supports the grant of leave.

2. The A.G. has stated that the leave is subject to the conditions laid down in Art. 234 (b) C.S.R. and should be sanctioned by Government.

3. In a recent case Finance has held that such leave can be granted only if it was applied for and refused in public interest before the clerk attained the age of 55. There is no information in the District Judge's letter about this. Perhaps the High Court may be addressed. A draft letter is submitted for consideration.

11/1

RR
8.1.37.

KRW
10/1

p.7 c.f.

(Issued as letter No.2927 E-7 d. 14-1-37.)

12

:2:

~~Ax~~Ex From the High Court, R.O.C.No.5135-36-B-3 d. 28-1-37. C.No.400 E p.8c.f.

....

A.S.

In the circumstances stated, the leave may be ~~declined~~ refused. A draft order is submitted for approval. -

~~Finance may see before issue.~~

FCR
30/1/37.
1/2

DK
2/2

JCW
1/2

1) Is there a ministerial servant?
if not how can the ~~C.J.~~ D.J.
Certify his service?

2) if he is ~~over 60~~ why is it nec. to
Certify his service which ordinarily
Ceases on till he is 60? (3) Am I
to understand that a ministerial servant
can get no leave after he is 55
though he is not required to retire

HG
4.2

HOME (E) DEPARTMENT.

A.S.

Please see the Secretary's query (1) on page 2 ante.

The Sheristadar is a Ministerial servant.

Secretary's query (2) on p.2 ante.

The delegation rule under F.R.56(b) contemplates that the retention in service of a ministerial servant who has attained the age of 55 years should be by extensions for a year at a time.

Secretary's query (3) on p.2 ante.

Please see note 2 under F.R.86. The Ministerial servant can get leave under the ordinary rules so long as he is retained in service. Once he is required to retire with effect from a particular date he cannot get any leave after that date, unless he satisfies the conditions of in F.R.86(a). In the present case, the officer is said to be governed by the rules in Chapters XI and XII C.S.R. Apparently he did not elect the F.R. His case is therefore regulated by Article 234 C.S.R. under which all leave expires on the date of attaining 55 years and no fresh leave may be granted except as provided in Article 234(b) C.S.R.

S

Is this correct? 1st with his pl
advice

Hlh
18/V

Hin

Home 29-7 E-3.
15-2-37
1 mis 37

Finance (C.S.R)

Please see the above notes of the Home dept.

2. With reference to portion A on page 3 ante, it is submitted that the Sarishtadar is governed by the C.S.R only in the matter of leave. In regard to other conditions of service, the Fundamental Rules will apply: Cf:- Fundamental Rules 2 and 58. F.R. 56 (b) therefore applies to the Sarishtadar.

3. As the officer is governed by the C.S.R in the matter of leave, his leave after attaining the age of 55 is regulated by Art. 234 (b); and leave can be granted to him after attaining the age of 55 only if the conditions mentioned in the Article are satisfied, unless the provisions of the article are relaxed under

5753/37

(B)

A

15

Classification rule 12 (in any particular case) where it is considered that a strict application of the article will result in hardship. The position as stated in the Home Secretary's note above is correct.

GS/25.2.37.

Home.

23.2.37

Lows
25.2.37

Fin no: 5753-1 C&M

(with a linked file) 25.2.37

HOME (E) DEPARTMENT

705 E

From the High Court, R.O.C.No.5315-36-B-3 d. 17-2-37.

....

A.S.

Please see Finance's notes above; and the High Court's letter on p.9 c.f.

Submitted for orders as to the issue of the draft order already put up.

Home 25-2-37
26.2.37.

Please see p 3

3.3.37.

Lows
3/3

ZK
6/3
S

This is not a new rule - all leave stops at 55. for ministerial servants & if they remain in service after that age they cannot take leave. If they want leave they must retire instead of retiring on 14.11.36 ~~they~~ on their holiday on 13.11.36 ~~they~~ leave from 14.11.36 to 22.11.36.

2827 E
1873

After the Christmas holidays + 10 days holidays in January & others from 1-2-37. The District Judge recommends that both should agree to this, but this is not the slightest reason why both should do so. The individual knows perfectly well that he was not entitled to the leave

HB
13-3.

GK
14-3-37

63276/37

C.F.17.

DRAFT FOR APPROVAL.

HOME DEPT.

	Date.	Initials.
When received for fair copying ..		
When copied ..		
When examined..		
When signed ..		
When despatched.		

SUBJECT:—

LEAVE - Sankaranarain Rao - Sheristadar, District Court, Southk Kanara - After 55th year - Rejected.

READ AGAIN , dated 19.

" " " 19.

READ *ALSO*:—

No. ~~2927 E~~ From the ~~High Court, ROC.~~, No. ~~5315-36-B-3~~ dated ~~d. 7-12-1936.~~

~~3087 E~~ A.G. Madras, No. T.6.Jus.568 d. 21/22-12-36.

" ~~400 E~~ ~~High Court, R.O.C.No.5315-36-B-3 d.~~ 19.

28-1-1937.

" " " 19.

Order / Resolution — Ms. / Rout. No. 1074, dated 15. 3. 1937.

The Government decline to grant the leave applied for as the conditions laid down in Art.334(b), C.S.R. are not satisfied.

To the Hon. the C.J. (with c.f.)
" District Judge, S. Kanara.
" A.G. through Finance.
" Finance. Dept.

Audit Manual.

Audit Ruling under F.R.56 (b)

Coorection Slip No.6 on p.50 of the Audit Manual.

Scope of the Rule.

In view of the occurrence of the word "ordinarily" in the rule a ministerial Govt. servant can be retired from Govt. Service between the age of 55 and 60 years on grounds other than those of efficiency. In such a case he has no claim to be retained in service up to the age of 60 years and consequently the question of the grant to him of compensation does not arise.